

REMARKS

The Office Action of August 30, 2005, has been carefully reviewed, and in view of the above amendments and the following remarks, reconsideration and allowance of the pending claims are respectfully requested.

In the above Office Action, claims 8 and 9 were rejected under 35 U.S.C. § 112, second paragraph; claims 1, 2 and 5 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Brondos* (U.S. Patent No. 5,207,327); claims 3, 4, 9-12, 15 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Brondos* in view of *Hanaue* (U.S. Patent No. 3,854,650); and claims 6-8 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable *Brondos* in view of *Hanaue* and further in view of *Holley* (U.S. Patent No. 4,122,946).

As set forth above, claim 1 has been amended to recite a flat cavity having a first predetermined perimeter defined between said first planar portion and said second planar portion; wherein, when said first planar portion is folded over onto said second planar portion, the score lines further define one or more openings in the single planar piece of foam; and wherein the score lines further define one or more insert pieces that can be separated from the single planar piece of foam and inserted into the one or more openings to thereby reduce an effective size of the flat cavity and define a second predetermined perimeter smaller than said first predetermined perimeter. Applicant respectfully submits that the cited prior art does not disclose or suggest the ability to change the defined perimeter of a flat cavity by using an insert piece removed from a single planar piece of foam.

The first primary reference upon which the Examiner relies, *Brondos*, discloses a foldable packaging cushion 400 comprised of a single rectangular sheet

of foam. The folded unit folds pieces 406 and 407 so to define an orifice 401 sized for a disk drive package 190. The second primary reference upon which the Examiner relies, Dionne, discloses a packing member in the form of an edge or a corner protector. Hanaue, which is applied in combination with the above, discloses a packing cushion 10. None of these references cited by the Examiner disclose or suggest defining a first perimeter for a cavity and, when insert pieces are inserted, defining a second perimeter for the cavity.

Holley, upon which the Examiner relied in rejecting claim 6, also does not disclose this feature as now recited in claim 1. Holley discloses a plastic foam material frame 10 defining an interior perimeter 19 shaped to generally conform with the exterior of the product to be packaged. Col. 2, lines 35-37. Holley also discloses C-shaped cross members 20-22 which are fabricated from the material cut away from the interior of the frame 10 and fitted within grooves 11 and 14 to form an interlock. In so doing, the product seated within perimeter 19 is protected from impacts from the top, bottom and end of the container. The cross members do not, however, change the effective size of the perimeter or the defined cavity. This is apparent in that the product 31 remains within the perimeter 19 before and after the cross members are applied. Accordingly, Applicant submits that Holley does not provide the teaching found lacking in the primary references, that is, the use of insert pieces that can be separated from the single planar piece of foam and inserted into the one or more openings in the piece foam to thereby reduce an effective size of the flat cavity and define a second predetermined perimeter smaller than said first predetermined perimeter, as recited in claim 1. Accordingly, Applicant submits that claim 1 is patentable over the cited prior art.

Independent claims 11 and 13 have been amended similar to claim 1.

Applicant respectfully contends that claims 11 and 13 are also in condition for allowance based at least upon the reasons set forth above for claim.

CONCLUSION

In view of the above amendments and remarks, Applicant respectfully submits that the claims of the present application are now in condition for allowance, and an early indication of the same is earnestly solicited.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference would be helpful in resolving any remaining issues pertaining to this application; the Examiner is kindly invited to call the undersigned counsel for Applicant regarding the same.

Respectfully submitted,

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